

**MANCHESTER CITY COUNCIL
REPORT FOR RESOLUTION**

COMMITTEE: Standards Committee
DATE: 22 June 2009
SUBJECT: Ethical Governance Update
REPORT OF: The City Solicitor

PURPOSE OF REPORT:

To update the Standards Committee on developments in ethical governance matters; to seek the Standards Committee's comments on the proposal for the next edition of the Members Update; and to consider and comment on the draft Annual Standards Committee Report.

RECOMMENDATIONS:

For the Committee to:

1. note the report;
2. comment on the proposal for the next edition of the Members Update for circulation to Members; and
3. comment on the draft Annual Standards Committee Report and agree that it should go to the next meeting of Council on the 8 July 2008.

FINANCIAL CONSEQUENCES FOR REVENUE BUDGET:

None.

FINANCIAL CONSEQUENCES FOR CAPITAL BUDGET:

None.

WARDS AFFECTED:

All.

IMPLICATIONS FOR:

Antipoverty	Equal Opportunities	Environment	Employment
No	No	No	No

CONTACT OFFICERS:

Susan Orrell, City Solicitor x 3087 s.orrell@manchester.gov.uk
Michelle Chard x 4098 m.chard@manchester.gov.uk
Karen Chadwick x 3539 k.chadwick@manchester.gov.uk
Kathryn Saldanha x 3539 k.saldanha@manchester.gov.uk

BACKGROUND DOCUMENTS:

Reports to the Standards Committee on 23 June, 8 September and 17 November 2008

Department of Communities and Local Government Consultation paper
"Communities in Control: Real People, Real Power, Codes of Conduct for Local Authority Members and Employees".

Background

1. There have been a number of recent developments in relation to ethical governance matters. This report provides a brief summary of them.

Briefing for Members on Ethical Governance Issues

2. At the meeting of the Standards Committee on 8 September 2008, it was agreed that a briefing for members on issues of ethical governance should be arranged to coincide with dates in the Committee cycle which are already in elected member's diaries. The Briefing for members on the above took place on 19 March and was repeated on 11 June 2009. Six members attended each of the briefings.
3. Members were briefed on the development of the ethical governance framework bringing in the requirement for a local filter of allegations of member misconduct.
4. Members were then asked to provide suggested responses to the members' assurance statement, which forms part of the annual governance statement (**AGS**), for discussion with the group. The AGS is the public statement setting out the how the City Council has performed in meeting its commitment to have in place culture, values, systems and processes to ensure it operates effectively and achieves its objectives, which is published with the Council's annual accounts. Members actively participated and the feedback was that the briefing was helpful and enjoyable.
5. The issues raised by members and discussed at the briefings included the difference between personal and prejudicial interests, the role of back bench members and their contribution to the governance of the Council, how to address the potential for the public to perceive that a member has a conflicts of interest in a matter, and how to improve member training in the Council.

Consultation and Members Update

6. On 18 December 2009, the Council responded to the Department of Communities and Local Government (**DCLG**) Consultation paper "Communities in Control: Real

People, Real Power, Codes of Conduct for Local Authority Members and Employees". The closing date for responses was 24 December 2008.

7. DCLG originally anticipated that within 3 months of the close of the consultation they would have analysed the responses and produced a summary of them, however this has not happened. DCLG will take account of the responses to the consultation before taking decisions on the legislation that will revise the Code and the Local Authorities (Model Code of Conduct) Order 2007. DCLG are at present unable to indicate when the summary of the responses and revised code will be made available. It is proposed that the changes to the code form the basis of the next edition of the Members Update. The Members Update will let members know who to contact if they have any queries regarding the revisions to the code of conduct and will ask members to advise whether they would like briefing sessions to be arranged. The Standards Committee are asked whether they agree with this proposal.

The Standards Committee (Further Provisions) (England) Regulations 2009

8. The Standards Committee (Further Provisions) (England) Regulations 2009 ("the Regulations") came into force on the 15th June 2009. The Regulations make further provision in respect of standards committees.
9. Regulations 3 to 13 provide for the Standards Board for England to give directions to a standards committee to suspend its "local filter" functions and to provide for the initial assessment of complaints to be exercised either by the Standards Board or by the standards committee of another authority. The circumstances in which the Standards Board may give a direction to a standards committee to suspend its "local filter" functions are where:
 - the standards committee has failed to have regard to guidance issued by the Standards Board;
 - the standards committee has failed to comply with a direction issued by the Standards Board;
 - the standards committee or monitoring officer has failed to carry out functions in relation to the conduct of members within a reasonable time or in a reasonable manner; or
 - the authority or standards committee has invited the Standards Board to give a direction.
10. Regulations 14 and 15 enable two or more relevant authorities to establish joint standards committees to discharge any or all of their functions under Part 3 of the Local Government Act 2000 or Part 1 of the Local Government and Housing Act 1989.
11. Regulations 16 and 17 prescribe the circumstances in which standards committees may grant dispensations to members or co-opted members who would otherwise be prohibited from engaging in the business of a relevant authority. The circumstances in which a standards committee may grant a dispensation are:

- where, but for the grant of any other dispensation in relation to that business, more than 50% of the members who would otherwise be entitled to vote at a meeting are prohibited from voting; or
- where, but for the grant of any other dispensation in relation to that business, the number of members that are prohibited from voting at a meeting would upset the political balance of the meeting.

12. Regulation 17(2) provides that a dispensation can only be granted in respect of business conducted during the period of 4 years after the date on which the dispensation is granted. It also specifies that the circumstances in which dispensations can be granted **do not** extend to the following:

- (i) allowing an individual member of the executive of an authority to exercise executive functions solely; and
- (ii) allowing a member of an overview and scrutiny committee to vote on a matter at a meeting of an overview and scrutiny committee, relating to a decision made by any body of which that person was a member at the time the decision was taken. Under the previous rules contained in The Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002 (which have been revoked by the Regulations) it was not possible to grant a dispensation to allow a member to participate in the consideration of a matter at a meeting of an overview and scrutiny committee of an authority, where the matter related to any decision made or action taken by any body of which he/she may also be a member. The Regulations have been amended to bring them more in line with the provisions on prejudicial interests arising in relation to overview and scrutiny committees in the revised code of conduct adopted by the City Council on 11 July 2007. A dispensation may now be granted to allow a member of an overview and scrutiny committee to participate in the consideration of (but not to vote on) a matter relating to a decision made by any body of which they were a member. The Regulations make it clear that the prohibition on granting a dispensation only applies to a decision made by a body of which the person applying for the dispensation was a member "at the time the decision was taken". Under the previous rules the prohibition on granting a dispensation applied "to a decision made or action taken by any body" of which the person applying for the dispensation was also a member (meaning that the member applying for the dispensation might not in fact have been involved in the decision or action that was the subject of scrutiny).

Work with the Standards Board for England

13. During the course of the year, the Council has worked with the Standards Board in piloting the development of the annual return questionnaire. The Standards Board use the information collected from the annual return to improve performance, champion the work of standards committee and to ensure that they have an effective overview of local standards and frameworks.
14. The Council is continuing to work jointly with the Standards Board on the production of a protocol of appropriate behaviour when working in partnership

with third parties. The protocol will be presented to the Eighth Annual Assembly of Standards Committees in Birmingham on 12-13 October 2009.

Draft Annual Standards Committee Report

15. In 2008, as part of the work to raise the profile of ethical governance, members of Standards Committee agreed that an annual report of the work undertaken by the Committee should go to Council. This is reflected in the remit of the Standards Committee set out in Article 12 of the Constitution which provides that the Standards Committee will 'report annually to Council on ethical governance within the City Council'.
16. Members are asked for their comments on the draft report at Appendix 1 and for their approval to take the annual report to full Council on 9 July 2008.